

REMARKS

The present election of species requirement is highly irregular since prosecution in this application has already progressed through examination of all claims, i.e., claims 45-49, on their merits, without any objection being presented by the Office regarding the claiming of multiple inventions or difficulty in searching all claims. Applicants respectfully traverse the election requirement and request that all five claims, 45-49, be examined together and allowed.

As is readily apparent based on the prosecution history in this application, the Examiner's search relating to the subject matter of claim 46-49 would encompass a search for the subject matter of claim 46 as well. This is evidenced by the fact that the Examiner had no professed difficulty in preparing an Office Action on the merits of each of these claims, which was mailed July 12, 2005. Consequently, there is no undue burden involved with searching and examining all of claims 45-49 in this application.

Also, while the claim language of independent claims 45 and 46 may not be identical, there is a great deal of similarity; enough similarity to make any patentability search of either claim necessarily overlap with the other. Claim 45 defines a semiconductor device, which in any event would be related to the integrated circuit defined by claim 46. Both claims recite an opening in an insulating layer. Both claims recite that the opening is substantially free of polymer residue and silicon rich oxide residue. And, both claims recite that there is a conductor in the opening.

M.P.E.P. § 803 states: "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." The search and examination of claims 45-49 would not constitute, and obviously has not constituted, a

serious burden on the Examiner, therefore, claims 45-49 should be examined together at this time.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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